

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY MAY 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 715

Introduced by Assembly Member Dickinson

February 21, 2013

~~An act to amend Section 755 of the Evidence Code, relating to evidence.~~ *An act to amend Section 755 of the Evidence Code, relating to evidence.*

LEGISLATIVE COUNSEL'S DIGEST

AB 715, as amended, Dickinson. Evidence: interpreters.

Existing law provides that in any action or proceeding under specified provisions of the Family Code relating to domestic violence, in which a party does not proficiently speak or understand the English language is present, an interpreter shall be present to interpret the proceedings in a language that the party understands, and to assist communication between the party and his or her attorney, except that a court may issue prescribed orders ex parte without an interpreter. Existing law specifies that the fees of these interpreters shall be paid by the parties, except that these fees shall be waived for parties who need an interpreter and appear in forma pauperis. Existing law also requires the Judicial Council to revise a specified court rule and related court forms accordingly.

This bill would revise cross-references to and delete obsolete provisions of law.

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~~This bill would delete obsolete provisions of law.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 755 of the Evidence Code is amended to
2 read:
3 755. (a) In ~~any~~ an action or proceeding under Division 10
4 (commencing with Section 6200) of the Family Code, and in ~~any~~
5 an action or proceeding under the Uniform Parentage Act (Part 3
6 (commencing with Section 7600) of Division 12 of the Family
7 Code) or for dissolution or nullity of marriage or legal separation
8 of the parties in which a protective order has been granted or is
9 being sought pursuant to Section 6221 of the Family Code, in
10 which a party does not proficiently speak or understand the English
11 language, and that party is present, an interpreter, as provided in
12 this section, shall be present to interpret the proceedings in a
13 language that the party understands, and to assist communication
14 between the party and his or her attorney. Notwithstanding this
15 requirement, a court may issue an ex parte order pursuant to
16 Sections 2045 and 7710 of, and Article 1 (commencing with
17 Section 6320) of Chapter 2 of Part 4 of Division 10 of the Family
18 Code, without the presence of an interpreter. The interpreter
19 selected shall be certified pursuant to Article 4 (commencing with
20 Section 68560) of Chapter 2 of Title 8 of the Government Code,
21 unless the court in its discretion appoints an interpreter who is not
22 certified.

(b) The fees of interpreters utilized under this section shall be paid as provided in subdivision (b) of Section 68092 of the Government Code. However, the fees of an interpreter shall be waived for a party who needs an interpreter and appears in forma pauperis pursuant to ~~Section 68511.3~~ *Article 6 (commencing with Section 68630)* of the Government Code. ~~The Judicial Council shall amend subdivision (i) of California Rule of Court 985 and revise its forms accordingly by July 1, 1996.~~

(c) In any civil action in which an interpreter is required under this section, the court shall not commence proceedings until the appointed interpreter is present and situated near the party and his or her attorney. However, this section shall not prohibit the court from doing any of the following:

(1) Issuing an order when the necessity for the order outweighs the necessity for an interpreter.

(2) Extending the duration of a previously issued temporary order if an interpreter is not readily available.

(3) Issuing a permanent order where a party who requires an interpreter fails to make appropriate arrangements for an interpreter after receiving proper notice of the hearing with information about obtaining an interpreter.

(d) This section does not prohibit the presence of any other person to assist a party.

(e) A local public entity may, and the Judicial Council shall, apply to the appropriate state agency that receives federal funds authorized pursuant to the federal Violence Against Women Act (P.L. 103-322) for these federal funds or for funds from sources other than the state to implement this section. A local public entity and the Judicial Council shall comply with the requirements of this section only to the extent that any of these funds are made available.

(f) The Judicial Council shall draft rules and modify forms necessary to implement this section, including those for the petition for a temporary restraining order and related forms, to inform both parties of their right to an interpreter pursuant to this section.

~~SECTION 1. Section 755 of the Evidence Code is amended to read:~~

~~755. (a) In an action or proceeding under Division 10 (commencing with Section 6200) of the Family Code, and in an action or proceeding under the Uniform Parentage Act (Part 3~~

~~(commencing with Section 7600) of Division 12 of the Family Code) or for dissolution or nullity of marriage or legal separation of the parties in which a protective order has been granted or is being sought pursuant to Section 6221 of the Family Code, in which a party does not proficiently speak or understand the English language, and that party is present, an interpreter, as provided in this section, shall be present to interpret the proceedings in a language that the party understands, and to assist communication between the party and his or her attorney. Notwithstanding this requirement, a court may issue an ex parte order pursuant to Sections 2045 and 7710 of, and Article 1 (commencing with Section 6320) of Chapter 2 of Part 4 of Division 10 of the Family Code, without the presence of an interpreter. The interpreter selected shall be certified pursuant to Article 4 (commencing with Section 68560) of Chapter 2 of Title 8 of the Government Code, unless the court in its discretion appoints an interpreter who is not certified.~~

~~(b) The fees of interpreters utilized under this section shall be paid as provided in subdivision (b) of Section 68092 of the Government Code.~~

~~(c) In any civil action in which an interpreter is required under this section, the court shall not commence proceedings until the appointed interpreter is present and situated near the party and his or her attorney. However, this section shall not prohibit the court from doing any of the following:~~

~~(1) Issuing an order when the necessity for the order outweighs the necessity for an interpreter.~~

~~(2) Extending the duration of a previously issued temporary order if an interpreter is not readily available.~~

~~(3) Issuing a permanent order where a party who requires an interpreter fails to make appropriate arrangements for an interpreter after receiving proper notice of the hearing with information about obtaining an interpreter.~~

~~(d) This section does not prohibit the presence of any other person to assist a party.~~

~~(e) A local public entity may, and the Judicial Council shall, apply to the appropriate state agency that receives federal funds authorized pursuant to the federal Violence Against Women Act (P.L. 103-322) for these federal funds or for funds from sources other than the state to implement this section. A local public entity~~

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